

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Develop
Additional Methods to Implement the
California Renewables Portfolio Standard
Program.

Rulemaking 06-02-012
(Filed February 16, 2006)

**REPLY COMMENTS OF MOUNTAIN UTILITIES (U 906-E)
ON THE MARCH 26, 2009 PROPOSED DECISION OF
ADMINISTRATIVE LAW JUDGE ANNE E. SIMON ENTITLED
“AUTHORIZING USE OF RENEWABLE ENERGY CREDITS FOR COMPLIANCE
WITH THE CALIFORNIA RENEWABLES PORTFOLIO STANDARD”**

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Pursuant to Rule 14.3(d) of the Commission’s Rules of Practice and Procedure, Mountain Utilities (MU) provides its Reply Comments on the Proposed Decision of ALJ Anne Simon entitled “Authorizing Use of Renewable Energy Credits for Compliance with the California Renewables Portfolio Standard” (March PD).

In its comments on the previous Draft Proposed Decision, MU stated “MU is truly unique among Commission-regulated electric utilities and what works for every other electric utility may not work for MU.”¹ MU is gratified that the March PD takes into account MU’s unique characteristics:

For the two small California utilities, Bear Valley Electric Service and Mountain Utilities, price stability for their customers in the early years of the TREC market is more likely to be promoted by exempting them from the 5% limitation than by imposing it. As the small utilities have explained in several sets of comments, because of their remote locations and peak loads occurring in winter and at night (the inverse of those of the large utilities), their ability to contract for reasonably priced RPS-eligible resources is currently quite limited.⁵² Their ratepayers would be better served by allowing as much RPS procurement flexibility as possible, within the general requirements of the program and the existing flexible compliance rules.⁵³ We therefore will not now apply 5% of APT limitation to the small utilities, though this aspect of the limitation, like all others,

¹ Comments of Mountain Utilities (U 906-E) on Proposed Decision of ALJ Simon Entitled “Decision On Definition And Attributes Of Renewable Energy Credits For Compliance With The California Renewables Portfolio Standard,” filed August 4, 2008 in Rulemaking 06-02-012, at p. 1.

may be reconsidered on request of a party or on our own motion.

⁵² Of course, because Mountain Utilities is not now connected to the California grid, it simply cannot procure electricity from third parties at the present time.²

By this point, the accuracy of these statements concerning MU cannot be disputed. MU was therefore concerned, and admittedly a bit confused, by comments from Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) concerning the March PD's application of a 5% limitation on the use of TRECs to the three larger investor-owned utilities, PG&E, SCE, and San Diego Gas and Electric Company (SDG&E):

[I]f the Commission decides to retain any percentage limitation, at a minimum, **it should be applied to all LSEs**. Applying a percentage limitation only to the IOUs is discriminatory. There is no reasoned basis for allowing other LSEs to comply with California's RPS requirements with the amount of RECs they deem appropriate while limiting the IOUs to a fixed percentage, even if the limitation is only temporary. This discriminatory treatment will make IOU compliance with the California RPS requirements more difficult and costly for IOU customers because, after the percentage limit is reached, the IOUs will have one less option for satisfying their RPS requirements.³

SCE similarly insists that "all LSEs" must be treated equally.⁴

By using the phrase "all LSEs," both PG&E and SCE have created ambiguity and generated confusion. It may be that PG&E and SCE are not concerned about exempting MU from the cap, for the time being, but are rather concerned that non-investor owned utility LSEs are also provided such an exemption.

But given the phrase "all LSEs," MU must of necessity address these claims by PG&E and SCE. First, it is not unduly discriminatory to inject the reality of significantly differing circumstances into the admittedly difficult process of creating the framework for a TREC market. PG&E and the other large investor owned utilities have access to the California transmission grid. *MU does not*. These large utilities have huge fiscal and personnel resources to bring to bear in negotiating contracts, and collectively serve most of the demand for electricity

² March PD, pp. 30-31 (text of footnote 53 omitted).

³ Comments of Pacific Gas And Electric Company (U 39 E) on March 26, 2009 Proposed Decision Regarding Tradable Renewable Energy Credits, p. 5 (emphasis added).

⁴ Southern California Edison Company's (U 338-E) Comments on the Proposed Decision Authorizing Use of Renewable Energy Credits for Compliance with the California Renewables Portfolio Standard, pp. 5-6.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the **REPLY COMMENTS OF MOUNTAIN UTILITIES (U 906-E) ON THE MARCH 26, 2009 PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE ANNE E. SIMON ENTITLED “AUTHORIZING USE OF RENEWABLE ENERGY CREDITS FOR COMPLIANCE WITH THE CALIFORNIA RENEWABLES PORTFOLIO STANDARD”** on April 20, 2009, on all known parties to proceeding R. 06-02-012 via electronic mail to those whose addresses are available and via U.S. mail to those who do not have an electronic address.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this 20th day of April, 2009, at Sacramento, California.

/ s /

Lois Navarrot

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